

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 04-CV-11069-JLT

ABRAHAM PHILIP, M.D.)
Plaintiff,)
)
v.)
)
JOHN CRONIN,)
Defendant.)
)

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION
IN LIMINE FOR FINDING AND INSTRUCTION THAT
PLAINTIFF'S SPEECH WAS "SPEECH OF PUBLIC CONCERN"**

The Defendant, John Cronin, hereby opposes Plaintiff's Motion *in Limine* For Finding and Instruction that Plaintiff's Speech Was "Speech of Public Concern." In his latest attempt to have the Court rule in his favor on this issue, plaintiff suggests to the Court that recent cases have changed the long standing analysis usually done by courts in determining whether a party's speech was on a matter of public concern, as stated in Connick v. Myers, 461 U.S. 138, 147-148 (1983).

Plaintiff here attempts to use language in a handful of recent cases that cite O'Connor v. Steeves, 994 F.2d 905, 913-14 (1st Cir. 1993). O'Connor, which rather than being new law, was decided by the First Circuit over a dozen years ago, does not, however, render the Connick factors immaterial or unnecessary in this case.

Accordingly, for the reasons already set forth in both defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment and his Supplemental Opposition to Plaintiff's Motion for Partial Summary Judgment, the Court should deny Plaintiff's Motion *in Limine* For Finding and Instruction that Plaintiff's Speech Was "Speech of Public Concern."

Respectfully Submitted,
JOHN CRONIN,

By his Attorneys,

THOMAS F. REILLY
ATTORNEY GENERAL

s/ Brian M. Donovan

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March 12, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 12, 2006.

s/ Brian M. Donovan

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